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8	BEFORE THE BOARD OF REGISTERED NURSING
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA
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11	In the Matter of the Accusation Against: Case No. 2010-4
12	CYNTHIA J. STERLING 2010-A Harbison Road, No. 328
13	Vacaville, California 95687 A C C U S A T I O N
14	Registered Nurse License No. 573022
15	Respondent.
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18	Complainant alleges:
19	<u>PARTIES</u>
20	1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") brings this Accusation solely in her
21	official capacity as the Executive Officer of the Board of Registered Nursing ("Board"),
22	Department of Consumer Affairs.
23	Registered Nurse License
24	2. On or about October 17, 2000, the Board issued Registered Nurse License Number
25	573022 to Cynthia J. Sterling ("Respondent"). The registered nurse license was in full force and
26	effect at all times relevant to the charges brought herein and will expire on January 31, 2010,
27	unless renewed.
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Accusation

STATUTORY PROVISIONS

- 3. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.
- 4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.
- 5. Code section 118, subdivision (b), provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.
 - 6. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

- (a) Unprofessional conduct, which includes, but is not limited to, the following:
- (1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.
- 7. Code section 2762 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

REGULATORY PROVISION

8. California Code of Regulations, title 16, section ("Regulation") 1442, states:

As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent registered nurse. Such an

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extreme departure means the repeated failure to provide nursing care as required or failure to provide care or to exercise ordinary precaution in a single situation which the nurse knew, or should have known, could have jeopardized the client's health or life.

COST RECOVERY

9. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

10. **DRUG**

"Reglan" is a dangerous drug under Code section 4022 in that under federal or state law it requires a prescription.

FIRST CAUSE FOR DISCIPLINE

11. Respondent is subject to discipline pursuant to Code section 2761, subdivision (a)(1), on the grounds of unprofessional conduct, in that on or about January 19, 2005, Respondent committed acts constituting gross negligence, as defined in California Code of Regulations, title 16, section 1442. Respondent administered Reglan, a dangerous drug, to Patient M.R. without a physician's order or directive.

SECOND CAUSE FOR DISCIPLINE

- 12. Respondent is subject to discipline pursuant to Code section 2761, subdivision (a), on the grounds of unprofessional conduct, as defined in Code section 2762, subdivision (a), in that on or about January 19, 2005, Respondent committed the following acts:
- a. Respondent prescribed Reglan, a dangerous drug, to Patient M.R., without a physician's order or directive.
- b. Respondent administered Reglan, a dangerous drug, to Patient M.R., without a physician's order or directive.

THIRD CAUSE FOR DISCIPLINE

13. Respondent is subject to discipline pursuant to Code section 2761, subdivision (a), on the grounds of unprofessional conduct, as more particularly set forth in paragraphs 11 and 12, above.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- Revoking or suspending Registered Nurse License Number 573022, issued to Cynthia
 J. Sterling;
- Ordering Cynthia J. Sterling to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,
 - 3. Taking such other and further action as deemed necessary and proper.

DATED: 718 09

RUTH ANN TERRY, M.P.H., R.N.

Executive Officer

Board of Registered Nursing Department of Consumer Affairs

State of California Complainant

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